

Defendants Luxottica of America Inc. (erroneously named Luxottica Retail) (“Luxottica”), Erik Rienecker, and Louis Chestman by and through their attorneys, Jackson Lewis P.C., pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, respectfully submit this Notice and Petition For Removal of a case from the Superior Court of New Jersey, Law Division, Cumberland County, bearing Docket No. CUM-L-000026-19, and as grounds for removal allege as follows:

1. On January 9, 2019, Plaintiff, Nick Simpkins (“Plaintiff”) filed a civil action captioned Nick Simpkins v. Luxottica Retail, Erik Rienecker, Louis Chestman, John Does 1-10, Docket No. CUM-L-00026-19, in the Superior Court of New Jersey, Law Division, Cumberland County. A true and correct copy of the Complaint in that action is attached hereto as Exhibit A.

2. Defendants were served a copy of the Complaint on January 15, 2019, which is within thirty (30) days of the filing of this notice and petition for removal. The Complaint was the initial pleading received by Defendants setting forth the claims upon which the Plaintiff’s action is based.

3. The notice and petition is timely filed within the provisions of 28 U.S.C. § 1446. Defendants have effected removal within thirty (30) days of receipt by it of a paper from which it could first be ascertained that this action is removable. See 28 U.S.C. § 1446.

4. No proceedings have taken place in the state court action. Defendants have not served an answer or responsive pleading to Plaintiff’s Complaint or made any appearance or argument before the Superior Court of New Jersey.

5. This is an employment discrimination matter. Among other things, Plaintiff alleges that he was terminated from his employment with Luxottica in violation of the Family Medical Leave Act (“FMLA”), 29 U.S.C. 2601, *et seq.* See Exhibit A, Plaintiff’s Complaint, at Count Two.

6. Accordingly, this Court has original jurisdiction over Plaintiff’s claims under 28 U.S.C. § 1331, by virtue of the federal question arising out of Plaintiff’s claims under the FMLA, 29 U.S.C. § 2601, *et seq.*

7. Pursuant to 28 U.S.C. § 1441(a), this action may be removed to this Court because it is founded, in part, on claims or rights arising under the laws of the United States.

8. Pursuant to 28 U.S.C. §§ 1367 and 1441(c), this Court has supplemental jurisdiction over Plaintiff's additional cause of action under the New Jersey Law Against Discrimination because it forms part of the same case or controversy. See Exhibit A, Plaintiff's Complaint, at Count One.

9. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a).

10. Pursuant to 28 U.S.C. 1446(b)(2)(a), all Defendants consent to the removal of this action.

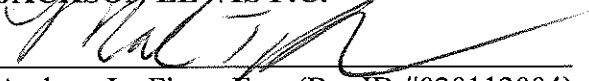
11. Defendants file this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pled claims upon which relief can be granted.

12. Pursuant to 28 U.S.C. § 1446(d), Defendants have given written notice of the removal of this action to all adverse parties, and have filed a copy of this notice with the Clerk of the Superior Court of New Jersey, Law Division, Somerset County.

WHEREFORE, Defendants respectfully request that the within action, now pending in the Superior Court of New Jersey, Law Division, Cumberland County, be removed to the United States District Court for the District of New Jersey.

Respectfully submitted,

**JACKSON LEWIS P.C.**



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